



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,732	10/06/2003	Tuoc Tan Nguyen	816020-100043-US	5302

34026 7590 04/19/2005  
JONES DAY  
555 WEST FIFTH STREET, SUITE 4600  
LOS ANGELES, CA 90013-1025

EXAMINER
----------

MILLER, CHERYL L

ART UNIT	PAPER NUMBER
----------	--------------

3738

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/680,732

Applicant(s)

NGUYEN ET AL.

Examiner

Cheryl Miller

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

The examiner has acknowledged the applicant election of species 2, drawn towards figures 11-12.

### *Claim Objections*

Claim 1 is objected to because of the following informalities: Line 6 recites, “near the *inflow annulus of a valve sinus* to an attachment location within a *sinus cavity*”. Appropriate correction is required. A valve sinus and sinus cavity have not been introduced in the claim. It is unclear whether applicant is trying to claim part of the valve assembly structure or refer to portions of the body. An inflow annulus of the replacement valve has already been claimed in line 2 and it is unclear whether the inflow annulus in line 6 is referring to the same or different annulus.

Claim 7 is objected to because of the following informalities: Line 2 recites, “the sinus commissural posts”. Appropriate correction is required. It is unclear whether applicant is referring to a portion of the body (portion of the native valve) or a portion of the valve assembly replacement valve.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Gabbay (US 2003/0040792 A1). Gabbay discloses an assembly (fig.2, 4, 14, 18) comprising a replacement valve (12, 472, 590) having leaflets (22, 24, 26; 480) and a scalloped inflow annulus. (inflow annulus is shown to be scalloped in all figures, but most clearly seen in figs. 1, 4, 15, 24) and an expandable anchoring structure (14, 420) having flared rims (see fig.15, 18, 14, 11, 2) and vertical elements (any element seen in red in attachment 1) extending between the rims. Gabbay discloses the valve (12, 472, 590) to be positioned internal of the anchor structure (see figs). Gabbay discloses the inflow rim of the anchor structure to have one or more rings (see attachment 2) in undulating patterns and the outflow rim to comprise diamond and hexagon structures (fig.2). Gabbay's elements are configured to coincide with sinus commissural posts of the native valve (see attachment 1).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3738

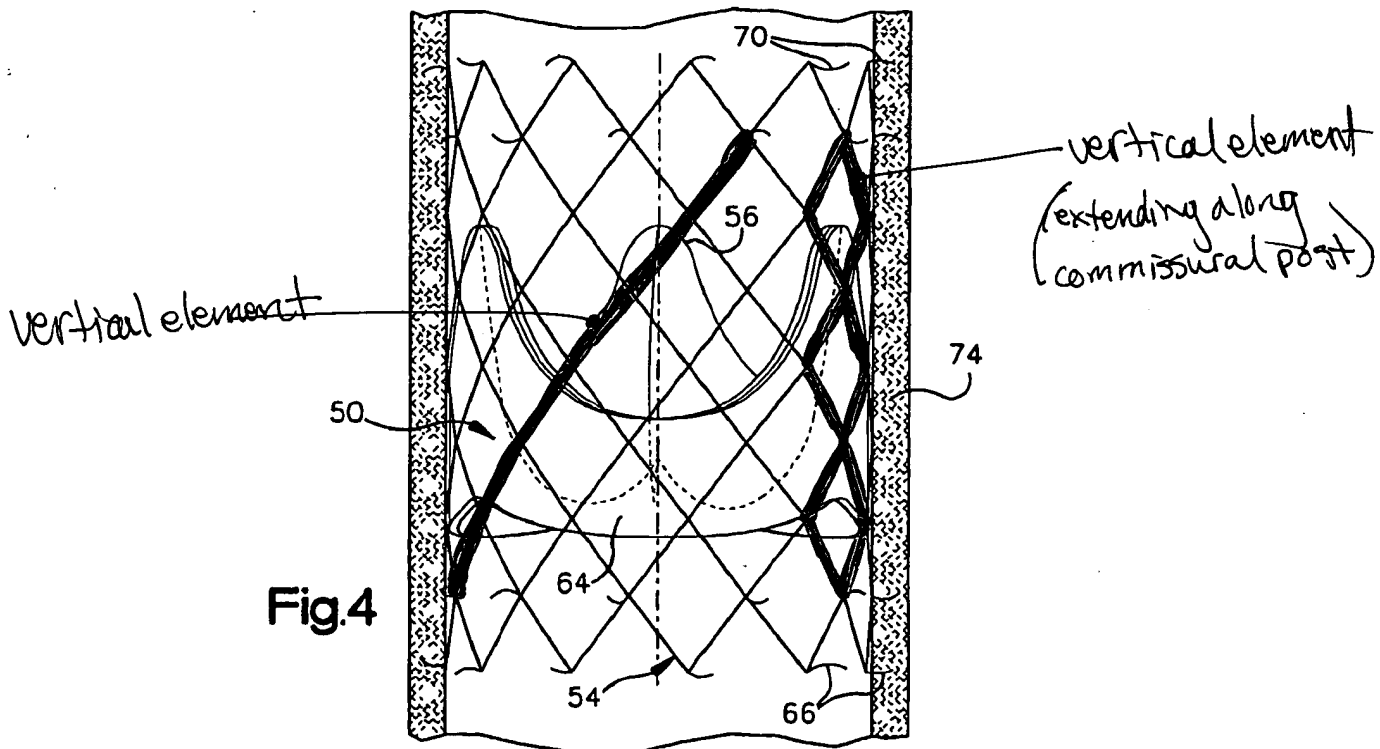
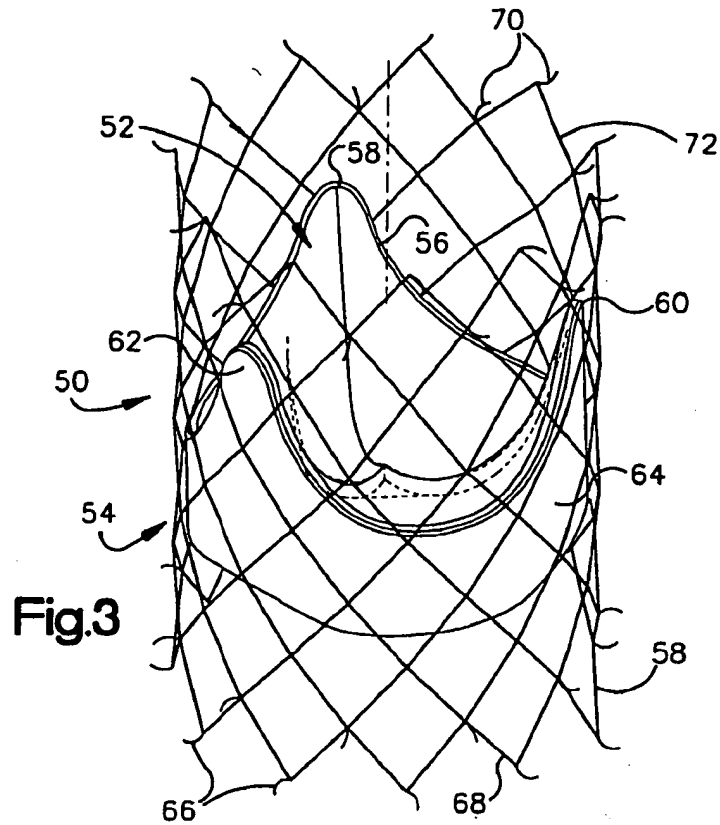
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cheryl Miller

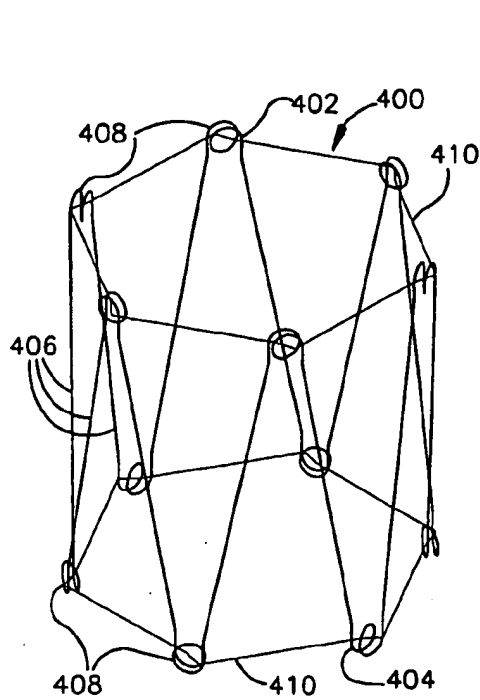


BRUCE SNOW  
PRIMARY EXAMINER

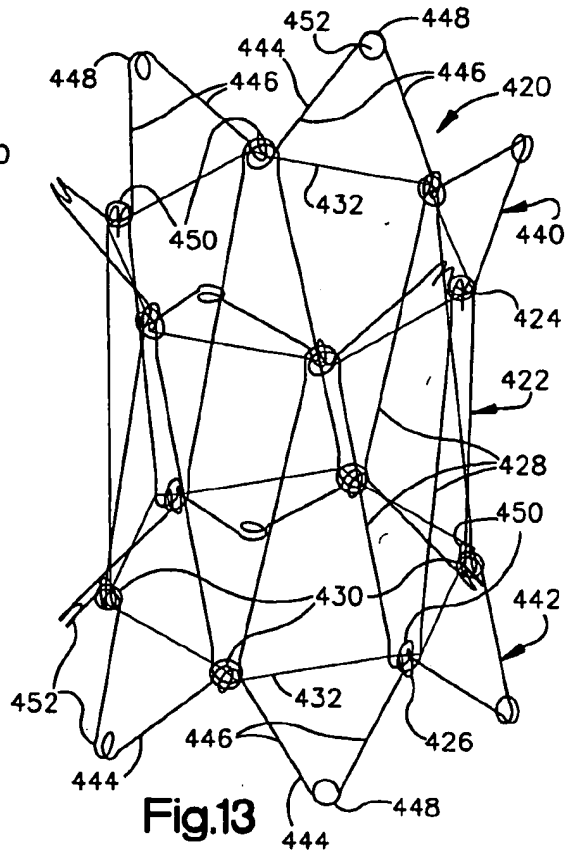


# Attachment #1 (marked up)

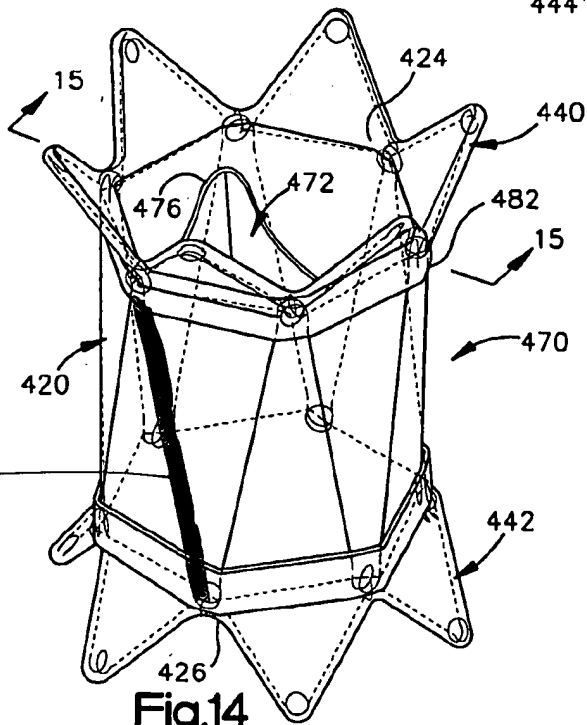
Patent Application Publication Feb. 27, 2003 Sheet 6 of 13 US 2003/0040792 A1



**Fig.12**



**Fig.13**



**Fig.14**

# Attachment #2 (marked up)

Patent Application Publication

Feb. 27, 2003

Sheet 2 of 13

US 2003/0040792 A1

